

SEP 14 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAFAEL RAMIREZ-MACIAS,

Defendant-Appellant.

No. 06-30177

D.C. No. CR-05-02108-EFS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of Washington
Edward F. Shea, District Judge, Presiding

Submitted September 11, 2001^{**}

Before: PREGERSON, T. NELSON, and GRABER, Circuit Judges.

Rafael Ramirez-Macias appeals his 51-month sentence imposed following his guilty plea to being found in the United States after illegal re-entry, in

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Ramirez-Macias contends that the district court violated his constitutional rights by imposing a sentence in excess of the two-year maximum set forth in 8 U.S.C. § 1326(a) based on a prior conviction that was neither proved to a jury nor admitted during the plea colloquy. This contention is foreclosed by *United States v. Beng-Salazar*, 452 F.3d 1088, 1091 (9th Cir. 2006). Moreover, at the plea colloquy, Ramirez-Macias admitted that he had been deported on December 18, 1996, which was subsequent to his July 25, 1989 drug conviction.

AFFIRMED.